



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2022-0186; FRL-9930-01-R8]

Approval and Promulgation of Implementation Plans; State of Utah; Revisions to Utah Administrative Code: Environmental Quality; Title R307; Air Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Utah Division of Administrative Rules (DAR) submitted by the State of Utah on May 21, 2020, May 28, 2020, November 3, 2020, and November 12, 2020. The revisions to the Utah Administrative Code address various State Implementation Plan (SIP) changes and updates. Specifically, we are proposing to make clerical updates to the General Requirements, Permits, and Emissions Inventory rules, including updating the effective date of various code of federal regulations (CFR) referenced. Additionally, we are proposing to approve changes to several Permits rules including adding new definitions, clarifying testing methods, and specifying an emissions limit for particulate matter 2.5 (PM_{2.5}) for emissions impact analysis. We are also proposing to repeal and replace the Emissions Testing rule as well as approve a new rule related to abrasive blasting in particulate matter 10 (PM₁₀) nonattainment areas. The EPA is taking this action pursuant to the Clean Air Act (CAA).

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R08-OAR-2022-0186, to the Federal Rulemaking Portal: <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from www.regulations.gov. The EPA may publish any comment received to its public docket.

Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically in www.regulations.gov. To reduce the risk of COVID-19 transmission, for this action we do not plan to offer hard copy review of the docket. Please email or call the person listed in the **FOR FURTHER INFORMATION CONTACT** section if you need to make alternative arrangements for access to the docket.

FOR FURTHER INFORMATION CONTACT: Amanda Brimmer, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD-IO, 1595 Wynkoop Street, Denver, Colorado, 80202-1129, (303) 312-6323, brimmer.amanda@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

I. Background

Between May 21, 2020, and November 12, 2020, the State of Utah submitted multiple SIP revisions for EPA approval including: revisions to R307-101 changing the date of the referenced CFR from July 1, 2017 to July 1, 2019; correction to R307-150-1 rule number

reference; repeal and replacement of R307-165 related to stack testing; addition of new section R307-306, related to abrasive blasting specifically in particulate matter (PM) nonattainment and maintenance areas; minor and major revisions to R307-401 including additions of new definitions and specifying testing methods; clerical updates to R307-405, deleting CFR date of July 2018, and renumbering subsections; and clerical revisions to R307-410 including removing specific CFR dates and adding an emissions limit for PM_{2.5} to Table 1. The EPA is not proposing action at this time on submittals from May 21, 2020 for R307-401-16, from May 28, 2020 for parts of R307-150 and multiple state rules that fall under the R307-500 rule series, and from November 3, 2020, for R307-150, R307-210, R307-214, and R307-410-5.

II. The EPA's Evaluation

Section 110(k) of the CAA addresses the EPA's rulemaking action on SIP submissions by states. The CAA requires states to observe certain procedural requirements in developing SIP revisions for submittal to the EPA. Section 110(a)(2) of the CAA requires that each SIP revision be adopted after reasonable notice and public hearing. This must occur prior to the revision being submitted by a state to the EPA. Guidance and policy documents that were used to evaluate enforceability, revision/relaxation, and rule stringency requirements for the applicable criteria pollutants was the, "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992). For clarity, EPA's evaluation is broken out by rule number.

R307-101: General Requirements

On November 3, 2020, the EPA received a submission from the State of Utah for R307-101-3, General Requirements: Version of Code of Federal Regulations Incorporated by Reference, which is the general version of the CFR incorporation which applies throughout Utah's R307 rule series, unless otherwise specified in a specific rule. The revision updated the referenced effective date of relevant 40 CFR references from July 1, 2017, to July 1, 2019. States periodically update their SIPs to incorporate by reference the most current 40 CFR to correlate

environmental regulations. This rule, as submitted by the State, does not cover rules that specify their own date for the version of the CFR that are incorporated by reference. On July 10, 2020 (85 FR 41398), we previously acted on R307-101-3, updating the CFR reference date and received no comments.

On March 4, 2020, the Utah Air Quality Board approved for public comment revisions for rule R307-101-3. The state public comment period ran from April 1 to May 4, 2020. A public hearing was not requested and no comments were received. The effective date of this rule was June 4, 2020. EPA is proposing to approve this revision.

R307-150: Emissions Inventories

On May 28, 2020, the EPA received a submission from the State of Utah for R307-150, Emission Inventories, section 1, which fixes an erroneous reference that should have been to R307. This revision did go through public comment October 1- November 15, 2017, and received no comments. It went into effect March 5, 2018.

R307-165: Emissions Testing

On November 3, 2020, the EPA received a submission from the State of Utah for R307-165, Stack Testing, sections 1 through 6. Due to the multitude of changes, the State decided to repeal R307-165, Emission Testing and replace it with all new text as R307-165. Stack Testing. The replacement text outlines the requirements for notifying, conducting, and reporting stack tests to Utah Division of Air Quality (UDAQ) and aligns the rule with federal requirements. The revisions also aligned the rule with State rule formatting and make clerical revisions for general clarity which strengthens the SIP.

On March 4, 2020, the Utah Air Quality Board approved for public comment revisions for rule R307-165. The state public comment period ran from April 1 to May 4, 2020. A public hearing was not requested and no comments were received. The effective date of this rule was August 10, 2020. EPA is proposing to approve these revisions.

R307-306: PM10 Nonattainment and Maintenance Areas: Abrasive Blasting

On November 12, 2020, the EPA received a submission from the State of Utah for R307-306, PM₁₀ Nonattainment and Maintenance Areas: Abrasive Blasting, sections 1 through 7. The new rule was based on language in Utah state rule R307-206, Emission Standards: Abrasive Blasting, previously approved by EPA in 2006,¹ with the addition of a few sections and renumbering for consistency with State rule formatting. The new rule applies specifically to PM₁₀ nonattainment and maintenance areas, being effective 180 days after the area is officially designated a nonattainment area for PM₁₀ by the EPA. Additionally, section R307-306-4 and R307-306-5 were strengthened from prior R307-206 text, with the standard for opacity being tightened from 40% to 20% and adding that visible emissions shall be measured using EPA Method 9. Additionally, section R307-306-3 added reference to Utah's SIP Section IX, Part H for clarity.

On March 9, 2005, the Utah Air Quality Board approved for public comment revisions for R307-306. The public comment period for was from March 1 to April 2, 2005. In response to public comment, clarifications were made to Rule R307-306, but no significant changes were made. Additional comments were accepted August 1 to September 2, 2005, on these minor revisions. No additional comments were received and the rule became effective September 2, 2005. EPA is proposing to approve these revisions, including use of Method 9 as an acceptable method under 40 CFR Part 51 Appendix M – Recommended Test Methods for State Implementation Plans.²

R307-401: Permits: New and Modified

On May 21, 2020, and May 28, 2020, the EPA received submissions from the State of Utah for R307-401, Permit: New and Modified Sources. The May 28, 2020 revisions were primarily clerical in nature, updating section references, and renumbering or removing numbers

¹ See 71 FR 7679, 2/14/06

² In 2006, EPA adopted newer testing methods which are virtually identical to EPA's Method 9 (found in 40 CFR part 60, appendix A), except for the data-reduction procedures, which provide for averaging times other than 6 minutes. Therefore, using Method 203A (found in 40 CFR part 51, appendix M), with a 6-minute averaging time would be the same as following EPA Method 9.

as necessary, with a few substantive changes. Section R307-401-2 removed subsection (1) and added clarifying references. Sections R307-401-4 through R307-401-6 and R307-401-9 had clerical revisions and updated section references. Section R307-401-10 added subsection (5) which included a definition for “well site,” as defined in 40 CFR 60.5430a, to exempted source categories, and a later update added “centralized tank batteries” for clarification of the section.³ Rule R307-401-11 includes a clerical update to subsection (1)(c) changing 'contaminants' to 'pollutants.' Section R307-401-14 through R307-401-16 included updated section references.

The May 21, 2020 submission had more substantive revisions, including adding definitions to R307-401-2 for “air strippers,” “soil aeration,” “soil vapor extraction,” and “vapor mitigation system (VMS).” R307-401-10 was amended to include the addition of a new subsection (7) related to the exemption of “vapor mitigation systems,” which exempts these systems from the New Source Review (NSR) permitting process and from the requirements of R307-401-15. Section R307-401-15 revisions updated the section title to include 'vapor extraction' and added much clarifying text related to air strippers and soil vapor extraction including testing and sampling procedures and reporting requirements.

On August 6, 2017 and September 7, 2019, the Utah Air Quality Board approved a public comment period for rule R307-401, Permit: New and Modified Sources. Public comment was taken October 1 through November 15, 2017 and September 1-30, 2019, respectively. The 2017 revision to R307-401-10 was updated based on received public comment. Revisions went into effect March 5, 2018, and March 5, 2020, respectively. EPA is proposing to approve these revisions.

R307-405: Permits: Major Sources in Attainment or Unclassified Areas (PSD)

On November 3, 2020, the EPA received a submission from the State of Utah for R307-405-2, Permits: Major Sources in Attainment or Unclassified Areas (PSD), which streamlines the

³ This revision precedes a previous SIP action by EPA (See 86 FR 28493, 5/27/2021), which added a subsequent subsection (6), thus subsection (6) is being reaffirmed in this action.

process for future rulemaking, making individual amendments to this rule no longer necessary to update their CFR incorporation, as the effected CFR date now falls under R307-101-3. On March 4, 2020, the Utah Air Quality Board approved this revision for public comment, which ran from April 1 to May 4, 2020. A public hearing was not requested and no comments were received. The effective date of this rule was June 4, 2020. EPA is proposing to approve this revision.

R307-410: Permits: Emissions Impact Analysis

On November 3, 2020, the EPA received a submission from the State of Utah for R307-410 Permit: Emission Impact Analysis, for sections 3 and 4. Revisions to R307-410-3 is a clerical update, removing the effective date of 40 CFR part 51, appendix. W. Revisions to R307-410-4 updates Table 1 which adds a PM_{2.5} significant emission rate (SER) modeling threshold of 10 tons per year (tpy) for direct emissions of major and minor sources in attainment areas established in 40 CFR 51.166(b)(23). This specific addition was done by the State in anticipation of an attainment designation of their PM_{2.5} nonattainment areas.

Although SERs are used for PSD applicability purposes, the State of Utah also uses SERs as the modeling threshold for both major and minor sources. When an area is designated attainment, modeling is an important part of the NSR program to ensure that a modification or new source will not cause or contribute to a violation of the National Ambient Air Quality Standard (NAAQS). Therefore, the State of Utah intends to ensure, through this rule revision, that appropriate requirements are established for evaluating the impact of new or modified sources upon anticipated redesignation of Utah's PM_{2.5} nonattainment areas. In addition, this revision corrects the terminology for the non-fugitive PM₁₀ modeling threshold; specifically, the term "non-fugitive dust," which is not defined in the Utah administrative rules and is technically incorrect.

On March 4, 2020, the Utah Air Quality Board approved for public comment revisions for rule R307-410-3, which ran from April 1 to May 4, 2020. A public hearing was not requested and no comments were received. The effective date of this rule was June 4, 2020. Additionally,

on May 6, 2020, the Utah Air Quality Board approved for public comment revisions to Rule R307-410-4, which ran from June 1 to July 2, 2020. No public comments were received nor was a public hearing requested and this rule became effective August 6, 2020. EPA is proposing to approve both revisions.

The following rules were submitted to the EPA; however, we are not acting on the revisions within this proposed action. We are not proposing to act on the State of Utah's rule revision submitted on May 21, 2020, to R307-401-16. We are also not proposing action on the May 28, 2020, submittal for R307-150-3, R307-150-9, nor any of the R307-500 series rules as there is currently not a requirement for the Uinta Basin Marginal Nonattainment Area to submit a SIP revision for EPA approval under CAA Part D section 182(a).⁴ Additionally, we are not proposing to act on the November 3, 2020, submittal related to revisions of R307-150-3 and R307-150-9, nor are we approving R307-210, R307-214, nor R307-410-5, because authority for these rules has already been delegated to the State of Utah.⁵ EPA is working with the State of Utah to correct these rules, which will be acted on at some future date as applicable.

III. Proposed Action

Based on the above discussion, EPA finds that the proposed revisions to R307-101, R307-150, R307-401, R307-405, and R307-410 as well new rule R307-306, and the repeal and replacement of R307-165 would not interfere with attainment or maintenance of any of the NAAQS in the State of Utah and would not interfere with any other applicable requirement of the CAA and thus is approvable under CAA 110(a)(2)(C), 40 CFR 51.160-164 and CAA section 110(l). Specifically, we are proposing to approve the State of Utah's rule revision submitted on May 21, 2020, to R307-401-2, R307-401-10, and R307-401-15. Additionally, we are proposing to approve the State of Utah's rule revision submitted on May 28, 2020, to R307-150-1, R307-401-2, R307-401-4 through R307-401-6, R307-401-9 through R307-401-11, R307-401-14

⁴ The State of Utah intends to correct the requested action on R307-150, R307-210, R307-214, R307-410-5, and R307-500 series rules through withdraw of these submittals.

⁵ See Delegations of Authority for NSPS and NESHAP Standards to States and Tribes in Region 8, <https://www.epa.gov/air-quality-implementation-plans/delegations-authority-nsps-and-neshap-standards-states-and-tribes>.

through R307-401-16. Additionally, we are proposing to approve the State of Utah's rule revision submitted on November 3, 2020, to R307-101-3, R307-165 sections 1 through 6, R307-405-2, R307-410-3, and R307-410-4. Furthermore, we are proposing to approve the State of Utah's rule revision submitted on November 12, 2020, to include new rule R307-306, sections 1 through 7 into the SIP.

IV. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the UDAQ rules discussed in section I. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 26, 2022

KC Becker,
Regional Administrator,
Region 8.

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